

Pau Brat

(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. 4340

To amend the Immigration and Nationality Act to eliminate the diversity immigrant program, *to focus family-sponsored immigration on spouses and minor children, and make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system.*

IN THE HOUSE OF REPRESENTATIVES

Mr. BRAT introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Immigration and Nationality Act to eliminate
the diversity immigrant program. *(See above)*

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 ~~"Americans First Act"~~ *"American Labor, Wages, and Sovereignty Act"*
6 *or the "American LAWS Act."*

7 (b) TABLE OF CONTENTS.—The table of contents of
this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MODIFICATION OF IMMIGRANT VISA PRIORITIES

- Sec. 101. Elimination of diversity immigrant program.
Sec. 102. Family-Sponsored immigration priorities.

TITLE II—EMPLOYMENT ELIGIBILITY VERIFICATION

- Sec. 201. Short title.
Sec. 202. Employment eligibility verification process.
Sec. 203. Employment eligibility verification system.
Sec. 204. Recruitment, referral, and continuation of employment.
Sec. 205. Good faith defense.
Sec. 206. Preemption and States' Rights.
Sec. 207. Repeal.
Sec. 208. Penalties.
Sec. 209. Fraud and misuse of documents.
Sec. 210. Protection of Social Security Administration programs.
Sec. 211. Fraud prevention.
Sec. 212. Use of Employment Eligibility Verification Photo Tool.
Sec. 213. Identity authentication employment eligibility verification pilot programs.
Sec. 214. Inspector General audits.

1 **TITLE I—MODIFICATION OF** 2 **IMMIGRANT VISA PRIORITIES**

3 **SEC. 101. ELIMINATION OF DIVERSITY IMMIGRANT PRO-** 4 **GRAM.**

5 (a) WORLDWIDE LEVEL OF DIVERSITY IMMI-
6 GRANTS.—Section 201 of the Immigration and Nation-
7 ality Act (8 U.S.C. 1151) is amended—

8 (1) in subsection (a)—

9 (A) by inserting “and” at the end of para-
10 graph (1);

11 (B) by striking “; and” at the end of para-
12 graph (2) and inserting a period; and

13 (C) by striking paragraph (3); and

14 (2) by striking subsection (c).

15 (b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—

16 Section 203 of such Act (8 U.S.C. 1153) is amended—

1 (1) by striking subsection (c);

2 (2) in subsection (d), by striking “(a), (b), or
3 (c),” and inserting “(a) or (b),”;

4 (3) in subsection (e), by striking paragraph (2)
5 and redesignating paragraph (3) as paragraph (2);

6 (4) in subsection (f), by striking “(a), (b), or
7 (c)” and inserting “(a) or (b)”; and

8 (5) in subsection (g), by striking “(a), (b), and
9 (c)” and inserting “(a) and (b)”.

10 (c) **PROCEDURE FOR GRANTING IMMIGRANT STA-**
11 **TUS.**—Section 204 of such Act (8 U.S.C. 1154) is amend-
12 ed—

13 (1) by striking subsection (a)(1)(I); and

14 (2) in subsection (e), by striking “(a), (b), or
15 (c)” and inserting “(a) or (b)”.

16 (d) **EFFECTIVE DATE.**—The amendments made by
17 this section shall take effect as if enacted on October 1,
18 2017.

19 **SEC. 102. FAMILY-SPONSORED IMMIGRATION PRIORITIES.**

20 (a) **IMMEDIATE RELATIVE REDEFINED.**—The Immi-
21 gration and Nationality Act (8 U.S.C. 1101 et seq.) is
22 amended—

23 (1) in section 101(b)(1) (8 U.S.C. 1101(b)(1)),
24 in the matter preceding subparagraph (A), by strik-

1 ing “under twenty-one years of age who” and insert-
2 ing “who is younger than 18 years of age and”; and
3 (2) in section 201 (8 U.S.C. 1151)—

4 (A) in subsection (b)(2)(A)—

5 (i) in clause (i), by striking “children,
6 spouses, and parents of a citizen of the
7 United States, except that, in the case of
8 parents, such citizens shall be at least 21
9 years of age.” and inserting “children and
10 spouse of a citizen of the United States.”;
11 and

12 (ii) in clause (ii), by striking “such an
13 immediate relative” and inserting “the im-
14 mediate relative spouse of a United States
15 citizen”;

16 (B) by striking subsection (c) and insert-
17 ing the following:

18 “(c) **WORLDWIDE LEVEL OF FAMILY-SPONSORED**
19 **IMMIGRANTS.**—(1) The worldwide level of family-spon-
20 sored immigrants under this subsection for a fiscal year
21 is equal to 88,000 minus the number computed under
22 paragraph (2).

23 “(2) The number computed under this paragraph for
24 a fiscal year is the number of aliens who were paroled into

1 the United States under section 212(d)(5) in the second
2 preceding fiscal year who—

3 “(A) did not depart from the United States
4 (without advance parole) within 365 days; and

5 “(B)(i) did not acquire the status of an alien
6 lawfully admitted to the United States for perma-
7 nent residence during the two preceding fiscal years;
8 or

9 “(ii) acquired such status during such period
10 under a provision of law (other than subsection (b))
11 that exempts adjustment to such status from the nu-
12 merical limitation on the worldwide level of immigra-
13 tion under this section.”; and

14 (C) in subsection (f)—

15 (i) in paragraph (2), by striking “sec-
16 tion 203(a)(2)(A)” and inserting “section
17 203(a)”;

18 (ii) by striking paragraph (3);

19 (iii) by redesignating paragraph (4) as
20 paragraph (3); and

21 (iv) in paragraph (3), as redesignated,
22 by striking “(1) through (3)” and inserting
23 “(1) and (2)”.

1 (b) FAMILY-BASED VISA PREFERENCES.—Section
2 203(a) of the Immigration and Nationality Act (8 U.S.C.
3 1153(a)) is amended to read as follows:

4 “(a) SPOUSES AND MINOR CHILDREN OF PERMA-
5 NENT RESIDENT ALIENS.—Family-sponsored immigrants
6 described in this subsection are qualified immigrants who
7 are the spouse or a child of an alien lawfully admitted
8 for permanent residence.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) DEFINITION OF V NONIMMIGRANT.—Section
11 101(a)(15)(V) of the Immigration and Nationality
12 Act (8 U.S.C. 1101(a)(15)(V)) is amended by strik-
13 ing “section 203(a)(2)(A)” each place such term ap-
14 pears and inserting “section 203(a)”.

15 (2) NUMERICAL LIMITATION TO ANY SINGLE
16 FOREIGN STATE.—Section 202 of such Act (8
17 U.S.C. 1152) is amended—

18 (A) in subsection (a)(4)—

19 (i) by striking subparagraphs (A) and
20 (B) and inserting the following:

21 “(A) 75 PERCENT OF FAMILY-SPONSORED
22 IMMIGRANTS NOT SUBJECT TO PER COUNTRY
23 LIMITATION.—Of the visa numbers made avail-
24 able under section 203(a) in any fiscal year, 75

1 percent shall be issued without regard to the
2 numerical limitation under paragraph (2).

3 “(B) TREATMENT OF REMAINING 25 PER-
4 CENT FOR COUNTRIES SUBJECT TO SUB-
5 SECTION (e).—

6 “(i) IN GENERAL.—Of the visa num-
7 bers made available under section 203(a)
8 in any fiscal year, 25 percent shall be
9 available, in the case of a foreign state or
10 dependent area that is subject to sub-
11 section (e) only to the extent that the total
12 number of visas issued in accordance with
13 subparagraph (A) to natives of the foreign
14 state or dependent area is less than the
15 subsection (e) ceiling.

16 “(ii) SUBSECTION (e) CEILING DE-
17 FINED.—In clause (i), the term ‘subsection
18 (e) ceiling’ means, for a foreign state or
19 dependent area, 77 percent of the max-
20 imum number of visas that may be made
21 available under section 203(a) to immi-
22 grants who are natives of the state or area,
23 consistent with subsection (e).”; and

24 (ii) by striking subparagraphs (C) and
25 (D); and

1 (B) in subsection (e)—

2 (i) in paragraph (1), by adding “and”

3 at the end;

4 (ii) by striking paragraph (2);

5 (iii) by redesignating paragraph (3) as
6 paragraph (2); and

7 (iv) in the undesignated matter after
8 paragraph (2), as redesignated, by striking
9 “, respectively,” and all that follows and
10 inserting a period.

11 (3) RULES FOR DETERMINING WHETHER CER-
12 TAIN ALIENS ARE CHILDREN.—Section 203(h) of
13 such Act (8 U.S.C. 1153(h)) is amended by striking
14 “(a)(2)(A)” each place such term appears and in-
15 serting “(a)(2)”.

16 (4) PROCEDURE FOR GRANTING IMMIGRANT
17 STATUS.—Section 204 of such Act (8 U.S.C. 1154)
18 is amended—

19 (A) in subsection (a)(1)—

20 (i) in subparagraph (A)(i), by striking
21 “to classification by reason of a relation-
22 ship described in paragraph (1), (3), or (4)
23 of section 203(a) or”;

24 (ii) in subparagraph (B)—

1 (I) in clause (i), by redesignating
2 the second subclause (I) as subclause
3 (II); and

4 (II) by striking “203(a)(2)(A)”
5 each place such terms appear and in-
6 serting “203(a)”; and

7 (iii) in subparagraph (D)(i)(I), by
8 striking “a petitioner” and all that follows
9 through “section 204(a)(1)(B)(iii).” and
10 inserting “an individual younger than 21
11 years of age for purposes of adjudicating
12 such petition and for purposes of admis-
13 sion as an immediate relative under section
14 201(b)(2)(A)(i) or a family-sponsored im-
15 migrant under section 203(a), as appro-
16 priate, notwithstanding the actual age of
17 the individual.”;

18 (B) in subsection (f)(1), by striking “,
19 203(a)(1), or 203(a)(3), as appropriate”; and

20 (C) by striking subsection (k).

21 (5) WAIVERS OF INADMISSIBILITY.—Section
22 212 of such Act (8 U.S.C. 1182) is amended—

23 (A) in subsection (a)(6)(E)(ii), by striking
24 “section 203(a)(2)” and inserting “section
25 203(a)”; and

1 (B) in subsection (d)(11), by striking
2 “(other than paragraph (4) thereof)”.

3 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Sec-
4 tion 214(q)(1)(B)(i) of such Act (8 U.S.C.
5 1184(q)(1)(B)(i)) is amended by striking “section
6 203(a)(2)(A)” each place such term appears and in-
7 serting “section 203(a)”.

8 (7) DEFINITION OF ALIEN SPOUSE.—Section
9 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C))
10 is amended by striking “section 203(a)(2)” and in-
11 serting “section 203(a)”.

12 (8) CLASSES OF DEPORTABLE ALIENS.—Sec-
13 tion 237(a)(1)(E)(ii) of such Act (8 U.S.C.
14 1227(a)(1)(E)(ii)) is amended by striking “section
15 203(a)(2)” and inserting “section 203(a)”.

16 (d) CREATION OF NONIMMIGRANT CLASSIFICATION
17 FOR ALIEN PARENTS OF ADULT UNITED STATES CITI-
18 ZENS.—

19 (1) IN GENERAL.—Section 101(a)(15) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1101(a)(15)) is amended—

22 (A) in subparagraph (T)(ii)(III), by strik-
23 ing the period at the end and inserting a semi-
24 colon;

1 (B) in subparagraph (U)(iii), by striking
2 “or” at the end;

3 (C) in subparagraph (V)(ii)(II), by striking
4 the period at the end and inserting “; or”; and

5 (D) by adding at the end the following:

6 “(W) Subject to section 214(s), an alien who is
7 a parent of a citizen of the United States, if the cit-
8 izen is at least 21 years of age.”.

9 (2) CONDITIONS ON ADMISSION.—Section 214
10 of such Act (8 U.S.C. 1184) is amended by adding
11 at the end the following:

12 “(s)(1) The initial period of authorized admission for
13 a nonimmigrant described in section 101(a)(15)(W) shall
14 be 5 years, but may be extended by the Secretary of
15 Homeland Security for additional 5-year periods if the
16 United States citizen son or daughter of the nonimmigrant
17 is still residing in the United States.

18 “(2) A nonimmigrant described in section
19 101(a)(15)(W)—

20 “(A) is not authorized to be employed in the
21 United States; and

22 “(B) is not eligible for any Federal, State, or
23 local public benefit.

24 “(3) Regardless of the resources of a nonimmigrant
25 described in section 101(a)(15)(W), the United States cit-

1 izen son or daughter who sponsored the nonimmigrant
2 parent shall be responsible for the nonimmigrant's support
3 while the nonimmigrant resides in the United States.

4 “(4) An alien is ineligible to receive a visa or to be
5 admitted into the United States as a nonimmigrant de-
6 scribed in section 101(a)(15)(W) unless the alien provides
7 satisfactory proof that the United States citizen son or
8 daughter has arranged for health insurance coverage for
9 the alien, at no cost to the alien, during the anticipated
10 period of the alien's residence in the United States.”.

11 (c) EFFECTIVE DATE; APPLICABILITY.—

12 (1) EFFECTIVE DATE.—The amendments made
13 by this section shall take effect on the first day of
14 the first fiscal year beginning on or after the date
15 of the enactment of this Act.

16 (2) INVALIDITY OF CERTAIN PETITIONS AND
17 APPLICATIONS.—Excepted as provided in paragraph
18 (3), any petition under section 204 of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1154) seeking
20 classification of an alien under a family-sponsored
21 immigrant category that was eliminated by the
22 amendments made by this section and filed on or
23 after the date of enactment of this Act and any ap-
24 plication for an immigrant visa based on such a peti-
25 tion shall be considered invalid.

1 (3) VALID OFFER OF ADMISSION.—Notwith-
2 standing the termination by this title of the family-
3 sponsored and employment-based immigrant visa
4 categories, any alien whose petition or application
5 for a visa subsection (a) or (b) of section 203 of the
6 Immigration and Nationality Act, as in effect on the
7 day before the date of the enactment of this Act,
8 was approved and who is scheduled to receive an im-
9 migrant visa in the applicable preference category
10 not later than 1 year after the date of the enactment
11 of this Act, shall be entitled to such visa if the alien
12 enters the United States within 1 year after such
13 date of enactment.

14 **TITLE II—EMPLOYMENT**
15 **ELIGIBILITY VERIFICATION**

16 **SEC. 201. SHORT TITLE.**

17 This title may be cited as the “Legal Workforce Act”.

18 **SEC. 202. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-**
19 **ESS.**

20 (a) IN GENERAL.—Section 274A(b) of the Immigra-
21 tion and Nationality Act (8 U.S.C. 1324a(b)) is amended
22 to read as follows:

23 “(b) EMPLOYMENT ELIGIBILITY VERIFICATION
24 PROCESS.—

1 “(1) NEW HIRES, RECRUITMENT, AND REFER-
2 RAL.—The requirements referred to in paragraphs
3 (1)(B) and (3) of subsection (a) are, in the case of
4 a person or other entity hiring, recruiting, or refer-
5 ring an individual for employment in the United
6 States, the following:

7 “(A) ATTESTATION AFTER EXAMINATION
8 OF DOCUMENTATION.—

9 “(i) ATTESTATION.—During the
10 verification period (as defined in subpara-
11 graph (E)), the person or entity shall at-
12 test, under penalty of perjury and on a
13 form, including electronic and telephonic
14 formats, designated or established by the
15 Secretary by regulation not later than 6
16 months after the date of the enactment of
17 the Legal Workforce Act, that it has
18 verified that the individual is not an unau-
19 thorized alien by—

20 “(I) obtaining from the indi-
21 vidual the individual’s social security
22 account number or United States
23 passport number and recording the
24 number on the form (if the individual
25 claims to have been issued such a

1 number), and, if the individual does
2 not attest to United States nationality
3 under subparagraph (B), obtaining
4 such identification or authorization
5 number established by the Depart-
6 ment of Homeland Security for the
7 alien as the Secretary of Homeland
8 Security may specify, and recording
9 such number on the form; and

10 “(II) examining—

11 “(aa) a document relating to
12 the individual presenting it de-
13 scribed in clause (ii); or

14 “(bb) a document relating to
15 the individual presenting it de-
16 scribed in clause (iii) and a docu-
17 ment relating to the individual
18 presenting it described in clause
19 (iv).

20 “(ii) DOCUMENTS EVIDENCING EM-
21 PLOYMENT AUTHORIZATION AND ESTAB-
22 LISHING IDENTITY.—A document de-
23 scribed in this subparagraph is an individ-
24 ual’s—

1 “(I) unexpired United States
2 passport or passport card;

3 “(II) unexpired permanent resi-
4 dent card that contains a photograph;

5 “(III) unexpired employment au-
6 thorization card that contains a pho-
7 tograph;

8 “(IV) in the case of a non-
9 immigrant alien authorized to work
10 for a specific employer incident to sta-
11 tus, a foreign passport with Form I-
12 94 or Form I-94A, or other docu-
13 mentation as designated by the Sec-
14 retary specifying the alien’s non-
15 immigrant status as long as the pe-
16 riod of status has not yet expired and
17 the proposed employment is not in
18 conflict with any restrictions or limita-
19 tions identified in the documentation;

20 “(V) passport from the Fed-
21 erated States of Micronesia (FSM) or
22 the Republic of the Marshall Islands
23 (RMI) with Form I-94 or Form I-
24 94A, or other documentation as des-
25 ignated by the Secretary, indicating

1 nonimmigrant admission under the
2 Compact of Free Association Between
3 the United States and the FSM or
4 RMI; or

5 “(VI) other document designated
6 by the Secretary of Homeland Secu-
7 rity, if the document—

8 “(aa) contains a photograph
9 of the individual and biometric
10 identification data from the indi-
11 vidual and such other personal
12 identifying information relating
13 to the individual as the Secretary
14 of Homeland Security finds, by
15 regulation, sufficient for purposes
16 of this clause;

17 “(bb) is evidence of author-
18 ization of employment in the
19 United States; and

20 “(cc) contains security fea-
21 tures to make it resistant to tam-
22 pering, counterfeiting, and fraud-
23 ulent use.

24 “(iii) DOCUMENTS EVIDENCING EM-
25 PLOYMENT AUTHORIZATION.—A document

1 described in this subparagraph is an indi-
2 vidual's social security account number
3 card (other than such a card which speci-
4 fies on the face that the issuance of the
5 card does not authorize employment in the
6 United States).

7 “(iv) DOCUMENTS ESTABLISHING
8 IDENTITY OF INDIVIDUAL.—A document
9 described in this subparagraph is—

10 “(I) an individual's unexpired
11 State issued driver's license or identi-
12 fication card if it contains a photo-
13 graph and information such as name,
14 date of birth, gender, height, eye
15 color, and address;

16 “(II) an individual's unexpired
17 U.S. military identification card;

18 “(III) an individual's unexpired
19 Native American tribal identification
20 document issued by a tribal entity rec-
21 ognized by the Bureau of Indian Af-
22 fairs; or

23 “(IV) in the case of an individual
24 under 18 years of age, a parent or
25 legal guardian's attestation under

1 penalty of law as to the identity and
2 age of the individual.

3 “(v) AUTHORITY TO PROHIBIT USE OF
4 CERTAIN DOCUMENTS.—If the Secretary of
5 Homeland Security finds, by regulation,
6 that any document described in clause (i),
7 (ii), or (iii) as establishing employment au-
8 thorization or identity does not reliably es-
9 tablish such authorization or identity or is
10 being used fraudulently to an unacceptable
11 degree, the Secretary may prohibit or place
12 conditions on its use for purposes of this
13 paragraph.

14 “(vi) SIGNATURE.—Such attestation
15 may be manifested by either a handwritten
16 or electronic signature.

17 “(B) INDIVIDUAL ATTESTATION OF EM-
18 PLOYMENT AUTHORIZATION.—During the
19 verification period (as defined in subparagraph
20 (E)), the individual shall attest, under penalty
21 of perjury on the form designated or established
22 for purposes of subparagraph (A), that the indi-
23 vidual is a citizen or national of the United
24 States, an alien lawfully admitted for perma-
25 nent residence, or an alien who is authorized

1 under this Act or by the Secretary of Homeland
2 Security to be hired, recruited, or referred for
3 such employment. Such attestation may be
4 manifested by either a handwritten or electronic
5 signature. The individual shall also provide that
6 individual's social security account number or
7 United States passport number (if the indi-
8 vidual claims to have been issued such a num-
9 ber), and, if the individual does not attest to
10 United States nationality under this subpara-
11 graph, such identification or authorization num-
12 ber established by the Department of Homeland
13 Security for the alien as the Secretary may
14 specify.

15 “(C) RETENTION OF VERIFICATION FORM
16 AND VERIFICATION.—

17 “(i) IN GENERAL.—After completion
18 of such form in accordance with subpara-
19 graphs (A) and (B), the person or entity
20 shall—

21 “(I) retain a paper, microfiche,
22 microfilm, or electronic version of the
23 form and make it available for inspec-
24 tion by officers of the Department of
25 Homeland Security, the Department

1 of Justice, or the Department of
2 Labor during a period beginning on
3 the date of the recruiting or referral
4 of the individual, or, in the case of the
5 hiring of an individual, the date on
6 which the verification is completed,
7 and ending—

8 “(aa) in the case of the re-
9 cruiting or referral of an indi-
10 vidual, 3 years after the date of
11 the recruiting or referral; and

12 “(bb) in the case of the hir-
13 ing of an individual, the later of
14 3 years after the date the
15 verification is completed or one
16 year after the date the individ-
17 ual’s employment is terminated;
18 and

19 “(II) during the verification pe-
20 riod (as defined in subparagraph (E)),
21 make an inquiry, as provided in sub-
22 section (d), using the verification sys-
23 tem to seek verification of the identity
24 and employment eligibility of an indi-
25 vidual.

1 “(ii) CONFIRMATION.—

2 “(I) CONFIRMATION RECEIVED.—If the person or other entity
3 receives an appropriate confirmation
4 of an individual’s identity and work
5 eligibility under the verification sys-
6 tem within the time period specified,
7 the person or entity shall record on
8 the form an appropriate code that is
9 provided under the system and that
10 indicates a final confirmation of such
11 identity and work eligibility of the in-
12 dividual.
13

14 “(II) TENTATIVE NONCONFIRMA-
15 TION RECEIVED.—If the person or
16 other entity receives a tentative non-
17 confirmation of an individual’s iden-
18 tity or work eligibility under the
19 verification system within the time pe-
20 riod specified, the person or entity
21 shall so inform the individual for
22 whom the verification is sought. If the
23 individual does not contest the non-
24 confirmation within the time period
25 specified, the nonconfirmation shall be

1 considered final. The person or entity
2 shall then record on the form an ap-
3 propriate code which has been pro-
4 vided under the system to indicate a
5 final nonconfirmation. If the indi-
6 vidual does contest the nonconfirma-
7 tion, the individual shall utilize the
8 process for secondary verification pro-
9 vided under subsection (d). The non-
10 confirmation will remain tentative
11 until a final confirmation or noncon-
12 firmation is provided by the
13 verification system within the time pe-
14 riod specified. In no case shall an em-
15 ployer terminate employment of an in-
16 dividual because of a failure of the in-
17 dividual to have identity and work eli-
18 gibility confirmed under this section
19 until a nonconfirmation becomes final.
20 Nothing in this clause shall apply to a
21 termination of employment for any
22 reason other than because of such a
23 failure. In no case shall an employer
24 rescind the offer of employment to an
25 individual because of a failure of the

1 individual to have identity and work
2 eligibility confirmed under this sub-
3 section until a nonconfirmation be-
4 comes final. Nothing in this subelause
5 shall apply to a recission of the offer
6 of employment for any reason other
7 than because of such a failure.

8 “(III) FINAL CONFIRMATION OR
9 NONCONFIRMATION RECEIVED.—If a
10 final confirmation or nonconfirmation
11 is provided by the verification system
12 regarding an individual, the person or
13 entity shall record on the form an ap-
14 propriate code that is provided under
15 the system and that indicates a con-
16 firmation or nonconfirmation of iden-
17 tity and work eligibility of the indi-
18 vidual.

19 “(IV) EXTENSION OF TIME.—If
20 the person or other entity in good
21 faith attempts to make an inquiry
22 during the time period specified and
23 the verification system has registered
24 that not all inquiries were received
25 during such time, the person or entity

1 may make an inquiry in the first sub-
2 sequent working day in which the
3 verification system registers that it
4 has received all inquiries. If the
5 verification system cannot receive in-
6 quires at all times during a day, the
7 person or entity merely has to assert
8 that the entity attempted to make the
9 inquiry on that day for the previous
10 sentence to apply to such an inquiry,
11 and does not have to provide any ad-
12 ditional proof concerning such inquiry.

13 “(V) CONSEQUENCES OF NON-
14 CONFIRMATION.—

15 “(aa) TERMINATION OR NO-
16 TIFICATION OF CONTINUED EM-
17 PLOYMENT.—If the person or
18 other entity has received a final
19 nonconfirmation regarding an in-
20 dividual, the person or entity
21 may terminate employment of the
22 individual (or decline to recruit
23 or refer the individual). If the
24 person or entity does not termi-
25 nate employment of the indi-

1 vidual or proceeds to recruit or
2 refer the individual, the person or
3 entity shall notify the Secretary
4 of Homeland Security of such
5 fact through the verification sys-
6 tem or in such other manner as
7 the Secretary may specify.

8 “(bb) FAILURE TO NO-
9 TIFY.—If the person or entity
10 fails to provide notice with re-
11 spect to an individual as required
12 under item (aa), the failure is
13 deemed to constitute a violation
14 of subsection (a)(1)(A) with re-
15 spect to that individual.

16 “(VI) CONTINUED EMPLOYMENT
17 AFTER FINAL NONCONFIRMATION.—If
18 the person or other entity continues to
19 employ (or to recruit or refer) an indi-
20 vidual after receiving final noncon-
21 firmation, a rebuttable presumption is
22 created that the person or entity has
23 violated subsection (a)(1)(A).

24 “(D) EFFECTIVE DATES OF NEW PROCE-
25 DURES.—

1 “(i) HIRING.—Except as provided in
2 clause (iii), the provisions of this para-
3 graph shall apply to a person or other enti-
4 ty hiring an individual for employment in
5 the United States as follows:

6 “(I) With respect to employers
7 having 10,000 or more employees in
8 the United States on the date of the
9 enactment of the Legal Workforce
10 Act, on the date that is 6 months
11 after the date of the enactment of
12 such Act.

13 “(II) With respect to employers
14 having 500 or more employees in the
15 United States, but less than 10,000
16 employees in the United States, on
17 the date of the enactment of the
18 Legal Workforce Act, on the date that
19 is 12 months after the date of the en-
20 actment of such Act.

21 “(III) With respect to employers
22 having 20 or more employees in the
23 United States, but less than 500 em-
24 ployees in the United States, on the
25 date of the enactment of the Legal

1 Workforce Act, on the date that is 18
2 months after the date of the enact-
3 ment of such Act.

4 “(IV) With respect to employers
5 having 1 or more employees in the
6 United States, but less than 20 em-
7 ployees in the United States, on the
8 date of the enactment of the Legal
9 Workforce Act, on the date that is 24
10 months after the date of the enact-
11 ment of such Act.

12 “(ii) RECRUITING AND REFERRING.—
13 Except as provided in clause (iii), the pro-
14 visions of this paragraph shall apply to a
15 person or other entity recruiting or refer-
16 ring an individual for employment in the
17 United States on the date that is 12
18 months after the date of the enactment of
19 the Legal Workforce Act.

20 “(iii) AGRICULTURAL LABOR OR SERV-
21 ICES.—With respect to an employee per-
22 forming agricultural labor or services, this
23 paragraph shall not apply with respect to
24 the verification of the employee until the
25 date that is 30 months after the date of

1 the enactment of the Legal Workforce Act.
2 For purposes of the preceding sentence,
3 the term ‘agricultural labor or services’ has
4 the meaning given such term by the Sec-
5 retary of Agriculture in regulations and in-
6 cludes agricultural labor as defined in sec-
7 tion 3121(g) of the Internal Revenue Code
8 of 1986, agriculture as defined in section
9 3(f) of the Fair Labor Standards Act of
10 1938 (29 U.S.C. 203(f)), the handling,
11 planting, drying, packing, packaging, proc-
12 essing, freezing, or grading prior to deliv-
13 ery for storage of any agricultural or horti-
14 cultural commodity in its unmanufactured
15 state, all activities required for the prepa-
16 ration, processing or manufacturing of a
17 product of agriculture (as such term is de-
18 fined in such section 3(f)) for further dis-
19 tribution, and activities similar to all the
20 foregoing as they relate to fish or shellfish
21 facilities. An employee described in this
22 clause shall not be counted for purposes of
23 clause (i).

24 “(iv) EXTENSIONS.—Upon request by
25 an employer having 50 or fewer employees,

1 the Secretary shall allow a one-time 6-
2 month extension of the effective date set
3 out in this subparagraph applicable to such
4 employer. Such request shall be made to
5 the Secretary and shall be made prior to
6 such effective date.

7 “(v) TRANSITION RULE.—Subject to
8 paragraph (4), the following shall apply to
9 a person or other entity hiring, recruiting,
10 or referring an individual for employment
11 in the United States until the effective
12 date or dates applicable under clauses (i)
13 through (iii):

14 “(I) This subsection, as in effect
15 before the enactment of the Legal
16 Workforce Act.

17 “(II) Subtitle A of title IV of the
18 Illegal Immigration Reform and Im-
19 migrant Responsibility Act of 1996 (8
20 U.S.C. 1324a note), as in effect be-
21 fore the effective date in section
22 207(c) of the Legal Workforce Act.

23 “(III) Any other provision of
24 Federal law requiring the person or
25 entity to participate in the E-Verify

1 Program described in section 403(a)
2 of the Illegal Immigration Reform and
3 Immigrant Responsibility Act of 1996
4 (8 U.S.C. 1324a note), as in effect be-
5 fore the effective date in section
6 207(c) of the Legal Workforce Act,
7 including Executive Order 13465 (8
8 U.S.C. 1324a note; relating to Gov-
9 ernment procurement).

10 “(E) VERIFICATION PERIOD DEFINED.—

11 “(i) IN GENERAL.—For purposes of
12 this paragraph:

13 “(I) In the case of recruitment or
14 referral, the term ‘verification period’
15 means the period ending on the date
16 recruiting or referring commences.

17 “(II) In the case of hiring, the
18 term ‘verification period’ means the
19 period beginning on the date on which
20 an offer of employment is extended
21 and ending on the date that is three
22 business days after the date of hire,
23 except as provided in clause (iii). The
24 offer of employment may be condi-
25 tioned in accordance with clause (ii).

1 “(ii) JOB OFFER MAY BE CONDI-
2 TIONAL.—A person or other entity may
3 offer a prospective employee an employ-
4 ment position that is conditioned on final
5 verification of the identity and employment
6 eligibility of the employee using the proce-
7 dures established under this paragraph.

8 “(iii) SPECIAL RULE.—Notwith-
9 standing clause (i)(II), in the case of an
10 alien who is authorized for employment
11 and who provides evidence from the Social
12 Security Administration that the alien has
13 applied for a social security account num-
14 ber, the verification period ends three busi-
15 ness days after the alien receives the social
16 security account number.

17 “(2) REVERIFICATION FOR INDIVIDUALS WITH
18 LIMITED WORK AUTHORIZATION.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), a person or entity shall
21 make an inquiry, as provided in subsection (d),
22 using the verification system to seek
23 reverification of the identity and employment
24 eligibility of all individuals with a limited period
25 of work authorization employed by the person

1 or entity during the three business days after
2 the date on which the employee's work author-
3 ization expires as follows:

4 “(i) With respect to employers having
5 10,000 or more employees in the United
6 States on the date of the enactment of the
7 Legal Workforce Act, beginning on the
8 date that is 6 months after the date of the
9 enactment of such Act.

10 “(ii) With respect to employers having
11 500 or more employees in the United
12 States, but less than 10,000 employees in
13 the United States, on the date of the en-
14 actment of the Legal Workforce Act, be-
15 ginning on the date that is 12 months
16 after the date of the enactment of such
17 Act.

18 “(iii) With respect to employers hav-
19 ing 20 or more employees in the United
20 States, but less than 500 employees in the
21 United States, on the date of the enact-
22 ment of the Legal Workforce Act, begin-
23 ning on the date that is 18 months after
24 the date of the enactment of such Act.

1 “(iv) With respect to employers hav-
2 ing 1 or more employees in the United
3 States, but less than 20 employees in the
4 United States, on the date of the enact-
5 ment of the Legal Workforce Act, begin-
6 ning on the date that is 24 months after
7 the date of the enactment of such Act.

8 “(B) AGRICULTURAL LABOR OR SERV-
9 ICES.—With respect to an employee performing
10 agricultural labor or services, or an employee
11 recruited or referred by a farm labor contractor
12 (as defined in section 3 of the Migrant and Sea-
13 sonal Agricultural Worker Protection Act (29
14 U.S.C. 1801)), subparagraph (A) shall not
15 apply with respect to the reverification of the
16 employee until the date that is 30 months after
17 the date of the enactment of the Legal Work-
18 force Act. For purposes of the preceding sen-
19 tence, the term ‘agricultural labor or services’
20 has the meaning given such term by the Sec-
21 retary of Agriculture in regulations and in-
22 cludes agricultural labor as defined in section
23 3121(g) of the Internal Revenue Code of 1986,
24 agriculture as defined in section 3(f) of the
25 Fair Labor Standards Act of 1938 (29 U.S.C.

1 203(f)), the handling, planting, drying, packing,
2 packaging, processing, freezing, or grading
3 prior to delivery for storage of any agricultural
4 or horticultural commodity in its unmanufactured
5 state, all activities required for the preparation,
6 processing, or manufacturing of a product of agriculture
7 (as such term is defined in such section 3(f)) for further
8 distribution, and activities similar to all the foregoing
9 as they relate to fish or shellfish facilities. An employee
10 described in this subparagraph shall not be
11 counted for purposes of subparagraph (A).

13 “(C) REVERIFICATION.—Paragraph
14 (1)(C)(ii) shall apply to reverifications pursuant
15 to this paragraph on the same basis as it applies to
16 verifications pursuant to paragraph (1),
17 except that employers shall—

18 “(i) use a form designated or established
19 by the Secretary by regulation for purposes of this
20 paragraph; and

21 “(ii) retain a paper, microfiche, microfilm,
22 or electronic version of the form and make it available
23 for inspection by officers of the Department of Homeland
24 Security, the Department of Justice, or the Department
25

1 ment of Labor during the period beginning
2 on the date the reverification commences
3 and ending on the date that is the later of
4 3 years after the date of such reverification
5 or 1 year after the date the individual's
6 employment is terminated.

7 “(3) PREVIOUSLY HIRED INDIVIDUALS.—

8 “(A) ON A MANDATORY BASIS FOR CER-
9 TAIN EMPLOYEES.—

10 “(i) IN GENERAL.—Not later than the
11 date that is 6 months after the date of the
12 enactment of the Legal Workforce Act, an
13 employer shall make an inquiry, as pro-
14 vided in subsection (d), using the
15 verification system to seek verification of
16 the identity and employment eligibility of
17 any individual described in clause (ii) em-
18 ployed by the employer whose employment
19 eligibility has not been verified under the
20 E-Verify Program described in section
21 403(a) of the Illegal Immigration Reform
22 and Immigrant Responsibility Act of 1996
23 (8 U.S.C. 1324a note).

1 “(ii) INDIVIDUALS DESCRIBED.—An
2 individual described in this clause is any of
3 the following:

4 “(I) An employee of any unit of
5 a Federal, State, or local government.

6 “(II) An employee who requires a
7 Federal security clearance working in
8 a Federal, State or local government
9 building, a military base, a nuclear
10 energy site, a weapons site, or an air-
11 port or other facility that requires
12 workers to carry a Transportation
13 Worker Identification Credential
14 (TWIC).

15 “(III) An employee assigned to
16 perform work in the United States
17 under a Federal contract, except that
18 this subclause—

19 “(aa) is not applicable to in-
20 dividuals who have a clearance
21 under Homeland Security Presi-
22 dential Directive 12 (HSPD 12
23 clearance), are administrative or
24 overhead personnel, or are work-
25 ing solely on contracts that pro-

1 vide Commercial Off The Shelf
2 goods or services as set forth by
3 the Federal Acquisition Regu-
4 latory Council, unless they are
5 subject to verification under sub-
6 clause (II); and

7 “(bb) only applies to con-
8 tracts over the simple acquisition
9 threshold as defined in section
10 2.101 of title 48, Code of Federal
11 Regulations.

12 “(B) ON A MANDATORY BASIS FOR MUL-
13 TIPLE USERS OF SAME SOCIAL SECURITY AC-
14 COUNT NUMBER.—In the case of an employer
15 who is required by this subsection to use the
16 verification system described in subsection (d),
17 or has elected voluntarily to use such system,
18 the employer shall make inquiries to the system
19 in accordance with the following:

20 “(i) The Commissioner of Social Secu-
21 rity shall notify annually employees (at the
22 employee address listed on the Wage and
23 Tax Statement) who submit a social secu-
24 rity account number to which more than
25 one employer reports income and for which

1 there is a pattern of unusual multiple use.
2 The notification letter shall identify the
3 number of employers to which income is
4 being reported as well as sufficient infor-
5 mation notifying the employee of the proc-
6 ess to contact the Social Security Adminis-
7 tration Fraud Hotline if the employee be-
8 lieves the employee's identity may have
9 been stolen. The notice shall not share in-
10 formation protected as private, in order to
11 avoid any recipient of the notice from
12 being in the position to further commit or
13 begin committing identity theft.

14 “(ii) If the person to whom the social
15 security account number was issued by the
16 Social Security Administration has been
17 identified and confirmed by the Commis-
18 sioner, and indicates that the social secu-
19 rity account number was used without
20 their knowledge, the Secretary and the
21 Commissioner shall lock the social security
22 account number for employment eligibility
23 verification purposes and shall notify the
24 employers of the individuals who wrong-
25 fully submitted the social security account

1 number that the employee may not be
2 work eligible.

3 “(iii) Each employer receiving such
4 notification of an incorrect social security
5 account number under clause (ii) shall use
6 the verification system described in sub-
7 section (d) to check the work eligibility sta-
8 tus of the applicable employee within 10
9 business days of receipt of the notification.

10 “(C) ON A VOLUNTARY BASIS.—Subject to
11 paragraph (2), and subparagraphs (A) through
12 (C) of this paragraph, beginning on the date
13 that is 30 days after the date of the enactment
14 of the Legal Workforce Act, an employer may
15 make an inquiry, as provided in subsection (d),
16 using the verification system to seek verification
17 of the identity and employment eligibility of any
18 individual employed by the employer. If an em-
19 ployer chooses voluntarily to seek verification of
20 any individual employed by the employer, the
21 employer shall seek verification of all individ-
22 uals employed at the same geographic location
23 or, at the option of the employer, all individuals
24 employed within the same job category, as the
25 employee with respect to whom the employer

1 seeks voluntarily to use the verification system.
2 An employer's decision about whether or not
3 voluntarily to seek verification of its current
4 workforce under this subparagraph may not be
5 considered by any government agency in any
6 proceeding, investigation, or review provided for
7 in this Act.

8 “(D) VERIFICATION.—Paragraph
9 (1)(C)(ii) shall apply to verifications pursuant
10 to this paragraph on the same basis as it ap-
11 plies to verifications pursuant to paragraph (1),
12 except that employers shall—

13 “(i) use a form designated or estab-
14 lished by the Secretary by regulation for
15 purposes of this paragraph; and

16 “(ii) retain a paper, microfiche, micro-
17 film, or electronic version of the form and
18 make it available for inspection by officers
19 of the Department of Homeland Security,
20 the Department of Justice, or the Depart-
21 ment of Labor during the period beginning
22 on the date the verification commences and
23 ending on the date that is the later of 3
24 years after the date of such verification or

1 1 year after the date the individual's em-
2 ployment is terminated.

3 “(4) EARLY COMPLIANCE.—

4 “(A) FORMER E-VERIFY REQUIRED USERS,
5 INCLUDING FEDERAL CONTRACTORS.—Notwith-
6 standing the deadlines in paragraphs (1) and
7 (2), beginning on the date of the enactment of
8 the Legal Workforce Act, the Secretary is au-
9 thorized to commence requiring employers re-
10 quired to participate in the E-Verify Program
11 described in section 403(a) of the Illegal Immi-
12 gration Reform and Immigrant Responsibility
13 Act of 1996 (8 U.S.C. 1324a note), including
14 employers required to participate in such pro-
15 gram by reason of Federal acquisition laws
16 (and regulations promulgated under those laws,
17 including the Federal Acquisition Regulation),
18 to commence compliance with the requirements
19 of this subsection (and any additional require-
20 ments of such Federal acquisition laws and reg-
21 ulation) in lieu of any requirement to partici-
22 pate in the E-Verify Program.

23 “(B) FORMER E-VERIFY VOLUNTARY
24 USERS AND OTHERS DESIRING EARLY COMPLI-
25 ANCE.—Notwithstanding the deadlines in para-

1 graphs (1) and (2), beginning on the date of
2 the enactment of the Legal Workforce Act, the
3 Secretary shall provide for the voluntary com-
4 pliance with the requirements of this subsection
5 by employers voluntarily electing to participate
6 in the E-Verify Program described in section
7 403(a) of the Illegal Immigration Reform and
8 Immigrant Responsibility Act of 1996 (8 U.S.C.
9 1324a note) before such date, as well as by
10 other employers seeking voluntary early compli-
11 ance.

12 “(5) COPYING OF DOCUMENTATION PER-
13 MITTED.—Notwithstanding any other provision of
14 law, the person or entity may copy a document pre-
15 sented by an individual pursuant to this subsection
16 and may retain the copy, but only (except as other-
17 wise permitted under law) for the purpose of com-
18 plying with the requirements of this subsection.

19 “(6) LIMITATION ON USE OF FORMS.—A form
20 designated or established by the Secretary of Home-
21 land Security under this subsection and any infor-
22 mation contained in or appended to such form, may
23 not be used for purposes other than for enforcement
24 of this Act and any other provision of Federal crimi-
25 nal law.

1 “(7) GOOD FAITH COMPLIANCE.—

2 “(A) IN GENERAL.—Except as otherwise
3 provided in this subsection, a person or entity
4 is considered to have complied with a require-
5 ment of this subsection notwithstanding a tech-
6 nical or procedural failure to meet such require-
7 ment if there was a good faith attempt to com-
8 ply with the requirement.

9 “(B) EXCEPTION IF FAILURE TO CORRECT
10 AFTER NOTICE.—Subparagraph (A) shall not
11 apply if—

12 “(i) the failure is not de minimus;

13 “(ii) the Secretary of Homeland Secu-
14 rity has explained to the person or entity
15 the basis for the failure and why it is not
16 de minimus;

17 “(iii) the person or entity has been
18 provided a period of not less than 30 cal-
19 endar days (beginning after the date of the
20 explanation) within which to correct the
21 failure; and

22 “(iv) the person or entity has not cor-
23 rected the failure voluntarily within such
24 period.

1 “(C) EXCEPTION FOR PATTERN OR PRAC-
2 TICE VIOLATORS.—Subparagraph (A) shall not
3 apply to a person or entity that has or is engag-
4 ing in a pattern or practice of violations of sub-
5 section (a)(1)(A) or (a)(2).

6 “(8) SINGLE EXTENSION OF DEADLINES UPON
7 CERTIFICATION.—In a case in which the Secretary
8 of Homeland Security has certified to the Congress
9 that the employment eligibility verification system
10 required under subsection (d) will not be fully oper-
11 ational by the date that is 6 months after the date
12 of the enactment of the Legal Workforce Act, each
13 deadline established under this section for an em-
14 ployer to make an inquiry using such system shall
15 be extended by 6 months. No other extension of such
16 a deadline shall be made except as authorized under
17 paragraph (1)(D)(iv).”.

18 (b) DATE OF HIRE.—Section 274A(h) of the Immi-
19 gration and Nationality Act (8 U.S.C. 1324a(h)) is
20 amended by adding at the end the following:

21 “(4) DEFINITION OF DATE OF HIRE.—As used
22 in this section, the term ‘date of hire’ means the
23 date of actual commencement of employment for
24 wages or other remuneration, unless otherwise speci-
25 fied.”.

1 **SEC. 203. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
2 **TEM.**

3 Section 274A(d) of the Immigration and Nationality
4 Act (8 U.S.C. 1324a(d)) is amended to read as follows:

5 “(d) **EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
6 **TEM.—**

7 “(1) **IN GENERAL.—**Patterned on the employ-
8 ment eligibility confirmation system established
9 under section 404 of the Illegal Immigration Reform
10 and Immigrant Responsibility Act of 1996 (8 U.S.C.
11 1324a note), the Secretary of Homeland Security
12 shall establish and administer a verification system
13 through which the Secretary (or a designee of the
14 Secretary, which may be a nongovernmental enti-
15 ty)—

16 “(A) responds to inquiries made by per-
17 sons at any time through a toll-free telephone
18 line and other toll-free electronic media con-
19 cerning an individual’s identity and whether the
20 individual is authorized to be employed; and

21 “(B) maintains records of the inquiries
22 that were made, of verifications provided (or
23 not provided), and of the codes provided to in-
24 quirers as evidence of their compliance with
25 their obligations under this section.

1 “(2) INITIAL RESPONSE.—The verification sys-
2 tem shall provide confirmation or a tentative non-
3 confirmation of an individual’s identity and employ-
4 ment eligibility within 3 working days of the initial
5 inquiry. If providing confirmation or tentative non-
6 confirmation, the verification system shall provide an
7 appropriate code indicating such confirmation or
8 such nonconfirmation.

9 “(3) SECONDARY CONFIRMATION PROCESS IN
10 CASE OF TENTATIVE NONCONFIRMATION.—In cases
11 of tentative nonconfirmation, the Secretary shall
12 specify, in consultation with the Commissioner of
13 Social Security, an available secondary verification
14 process to confirm the validity of information pro-
15 vided and to provide a final confirmation or noneon-
16 firmation not later than 10 working days after the
17 date on which the notice of the tentative noneon-
18 firmation is received by the employee. The Secretary,
19 in consultation with the Commissioner, may extend
20 this deadline once on a case-by-case basis for a pe-
21 riod of 10 working days, and if the time is extended,
22 shall document such extension within the verification
23 system. The Secretary, in consultation with the
24 Commissioner, shall notify the employee and em-
25 ployer of such extension. The Secretary, in consulta-

1 tion with the Commissioner, shall create a standard
2 process of such extension and notification and shall
3 make a description of such process available to the
4 public. When final confirmation or nonconfirmation
5 is provided, the verification system shall provide an
6 appropriate code indicating such confirmation or
7 nonconfirmation.

8 “(4) DESIGN AND OPERATION OF SYSTEM.—

9 The verification system shall be designed and oper-
10 ated—

11 “(A) to maximize its reliability and ease of
12 use by persons and other entities consistent
13 with insulating and protecting the privacy and
14 security of the underlying information;

15 “(B) to respond to all inquiries made by
16 such persons and entities on whether individ-
17 uals are authorized to be employed and to reg-
18 ister all times when such inquiries are not re-
19 ceived;

20 “(C) with appropriate administrative, tech-
21 nical, and physical safeguards to prevent unau-
22 thorized disclosure of personal information;

23 “(D) to have reasonable safeguards against
24 the system’s resulting in unlawful discrimina-

1 tory practices based on national origin or citi-
2 zenship status, including—

3 “(i) the selective or unauthorized use
4 of the system to verify eligibility; or

5 “(ii) the exclusion of certain individ-
6 uals from consideration for employment as
7 a result of a perceived likelihood that addi-
8 tional verification will be required, beyond
9 what is required for most job applicants;

10 “(E) to maximize the prevention of iden-
11 tity theft use in the system; and

12 “(F) to limit the subjects of verification to
13 the following individuals:

14 “(i) Individuals hired, referred, or re-
15 cruited, in accordance with paragraph (1)
16 or (4) of subsection (b).

17 “(ii) Employees and prospective em-
18 ployees, in accordance with paragraph (1),
19 (2), (3), or (4) of subsection (b).

20 “(iii) Individuals seeking to confirm
21 their own employment eligibility on a vol-
22 untary basis.

23 “(5) RESPONSIBILITIES OF COMMISSIONER OF
24 SOCIAL SECURITY.—As part of the verification sys-
25 tem, the Commissioner of Social Security, in con-

1 sultation with the Secretary of Homeland Security
2 (and any designee of the Secretary selected to estab-
3 lish and administer the verification system), shall es-
4 tablish a reliable, secure method, which, within the
5 time periods specified under paragraphs (2) and (3),
6 compares the name and social security account num-
7 ber provided in an inquiry against such information
8 maintained by the Commissioner in order to validate
9 (or not validate) the information provided regarding
10 an individual whose identity and employment eligi-
11 bility must be confirmed, the correspondence of the
12 name and number, and whether the individual has
13 presented a social security account number that is
14 not valid for employment. The Commissioner shall
15 not disclose or release social security information
16 (other than such confirmation or nonconfirmation)
17 under the verification system except as provided for
18 in this section or section 205(c)(2)(I) of the Social
19 Security Act.

20 “(6) RESPONSIBILITIES OF SECRETARY OF
21 HOMELAND SECURITY.—As part of the verification
22 system, the Secretary of Homeland Security (in con-
23 sultation with any designee of the Secretary selected
24 to establish and administer the verification system),
25 shall establish a reliable, secure method, which, with-

1 in the time periods specified under paragraphs (2)
2 and (3), compares the name and alien identification
3 or authorization number (or any other information
4 as determined relevant by the Secretary) which are
5 provided in an inquiry against such information
6 maintained or accessed by the Secretary in order to
7 validate (or not validate) the information provided,
8 the correspondence of the name and number, wheth-
9 er the alien is authorized to be employed in the
10 United States, or to the extent that the Secretary
11 determines to be feasible and appropriate, whether
12 the records available to the Secretary verify the
13 identity or status of a national of the United States.

14 “(7) UPDATING INFORMATION.—The Commis-
15 sioner of Social Security and the Secretary of Home-
16 land Security shall update their information in a
17 manner that promotes the maximum accuracy and
18 shall provide a process for the prompt correction of
19 erroneous information, including instances in which
20 it is brought to their attention in the secondary
21 verification process described in paragraph (3).

22 “(8) LIMITATION ON USE OF THE
23 VERIFICATION SYSTEM AND ANY RELATED SYS-
24 TEMS.—

1 “(A) NO NATIONAL IDENTIFICATION
2 CARD.—Nothing in this section shall be con-
3 strued to authorize, directly or indirectly, the
4 issuance or use of national identification cards
5 or the establishment of a national identification
6 card.

7 “(B) CRITICAL INFRASTRUCTURE.—The
8 Secretary may authorize or direct any person or
9 entity responsible for granting access to, pro-
10 tecting, securing, operating, administering, or
11 regulating part of the critical infrastructure (as
12 defined in section 1016(e) of the Critical Infra-
13 structure Protection Act of 2001 (42 U.S.C.
14 5195c(e))) to use the verification system to the
15 extent the Secretary determines that such use
16 will assist in the protection of the critical infra-
17 structure.

18 “(9) REMEDIES.—If an individual alleges that
19 the individual would not have been dismissed from
20 a job but for an error of the verification mechanism,
21 the individual may seek compensation only through
22 the mechanism of the Federal Tort Claims Act, and
23 injunctive relief to correct such error. No class ac-
24 tion may be brought under this paragraph.”.

1 **SEC. 204. RECRUITMENT, REFERRAL, AND CONTINUATION**
2 **OF EMPLOYMENT.**

3 (a) **ADDITIONAL CHANGES TO RULES FOR RECRUIT-**
4 **MENT, REFERRAL, AND CONTINUATION OF EMPLOY-**
5 **MENT.**—Section 274A(a) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1324a(a)) is amended—

7 (1) in paragraph (1)(A), by striking “for a fee”;

8 (2) in paragraph (1), by amending subpara-
9 graph (B) to read as follows:

10 “(B) to hire, continue to employ, or to re-
11 cruit or refer for employment in the United
12 States an individual without complying with the
13 requirements of subsection (b).”; and

14 (3) in paragraph (2), by striking “after hiring
15 an alien for employment in accordance with para-
16 graph (1),” and inserting “after complying with
17 paragraph (1),”.

18 (b) **DEFINITION.**—Section 274A(h) of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1324a(h)), as amended
20 by section 202(b) of this title, is further amended by add-
21 ing at the end the following:

22 “(5) **DEFINITION OF RECRUIT OR REFER.**—As
23 used in this section, the term ‘refer’ means the act
24 of sending or directing a person who is in the United
25 States or transmitting documentation or information
26 to another, directly or indirectly, with the intent of

1 obtaining employment in the United States for such
2 person. Only persons or entities referring for remun-
3 eration (whether on a retainer or contingency
4 basis) are included in the definition, except that
5 union hiring halls that refer union members or non-
6 union individuals who pay union membership dues
7 are included in the definition whether or not they re-
8 ceive remuneration, as are labor service entities or
9 labor service agencies, whether public, private, for-
10 profit, or nonprofit, that refer, dispatch, or other-
11 wise facilitate the hiring of laborers for any period
12 of time by a third party. As used in this section, the
13 term 'recruit' means the act of soliciting a person
14 who is in the United States, directly or indirectly,
15 and referring the person to another with the intent
16 of obtaining employment for that person. Only per-
17 sons or entities referring for remuneration (whether
18 on a retainer or contingency basis) are included in
19 the definition, except that union hiring halls that
20 refer union members or nonunion individuals who
21 pay union membership dues are included in this defi-
22 nition whether or not they receive remuneration, as
23 are labor service entities or labor service agencies,
24 whether public, private, for-profit, or nonprofit that

1 recruit, dispatch, or otherwise facilitate the hiring of
2 laborers for any period of time by a third party.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall take effect on the date that is 1 year
5 after the date of the enactment of this Act, except that
6 the amendments made by subsection (a) shall take effect
7 6 months after the date of the enactment of this Act inso-
8 far as such amendments relate to continuation of employ-
9 ment.

10 **SEC. 205. GOOD FAITH DEFENSE.**

11 Section 274A(a)(3) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as
13 follows:

14 “(3) **GOOD FAITH DEFENSE.**—

15 “(A) **DEFENSE.**—An employer (or person
16 or entity that hires, employs, recruits, or refers
17 (as defined in subsection (h)(5)), or is otherwise
18 obligated to comply with this section) who es-
19 tablishes that it has complied in good faith with
20 the requirements of subsection (b)—

21 “(i) shall not be liable to a job appli-
22 cant, an employee, the Federal Govern-
23 ment, or a State or local government,
24 under Federal, State, or local criminal or
25 civil law for any employment-related action

1 taken with respect to a job applicant or
2 employee in good-faith reliance on informa-
3 tion provided through the system estab-
4 lished under subsection (d); and

5 “(ii) has established compliance with
6 its obligations under subparagraphs (A)
7 and (B) of paragraph (1) and subsection
8 (b) absent a showing by the Secretary of
9 Homeland Security, by clear and con-
10 vincing evidence, that the employer had
11 knowledge that an employee is an unau-
12 thorized alien.

13 “(B) MITIGATION ELEMENT.—For pur-
14 poses of subparagraph (A)(i), if an employer
15 proves by a preponderance of the evidence that
16 the employer uses a reasonable, secure, and es-
17 tablished technology to authenticate the identity
18 of the new employee, that fact shall be taken
19 into account for purposes of determining good
20 faith use of the system established under sub-
21 section (d).

22 “(C) FAILURE TO SEEK AND OBTAIN
23 VERIFICATION.—Subject to the effective dates
24 and other deadlines applicable under subsection
25 (b), in the case of a person or entity in the

1 United States that hires, or continues to em-
2 ploy, an individual, or recruits or refers an indi-
3 vidual for employment, the following require-
4 ments apply:

5 “(i) FAILURE TO SEEK
6 VERIFICATION.—

7 “(I) IN GENERAL.—If the person
8 or entity has not made an inquiry,
9 under the mechanism established
10 under subsection (d) and in accord-
11 ance with the timeframes established
12 under subsection (b), seeking
13 verification of the identity and work
14 eligibility of the individual, the de-
15 fense under subparagraph (A) shall
16 not be considered to apply with re-
17 spect to any employment, except as
18 provided in subclause (II).

19 “(II) SPECIAL RULE FOR FAIL-
20 URE OF VERIFICATION MECILANISM.—
21 If such a person or entity in good
22 faith attempts to make an inquiry in
23 order to qualify for the defense under
24 subparagraph (A) and the verification
25 mechanism has registered that not all

1 inquiries were responded to during the
2 relevant time, the person or entity can
3 make an inquiry until the end of the
4 first subsequent working day in which
5 the verification mechanism registers
6 no nonresponses and qualify for such
7 defense.

8 “(ii) FAILURE TO OBTAIN
9 VERIFICATION.—If the person or entity
10 has made the inquiry described in clause
11 (i)(I) but has not received an appropriate
12 verification of such identity and work eligi-
13 bility under such mechanism within the
14 time period specified under subsection
15 (d)(2) after the time the verification in-
16 quiry was received, the defense under sub-
17 paragraph (A) shall not be considered to
18 apply with respect to any employment after
19 the end of such time period.”.

20 **SEC. 206. PREEMPTION AND STATES' RIGHTS.**

21 Section 274A(h)(2) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1324a(h)(2)) is amended to read as
23 follows:

24 “(2) PREEMPTION.—

1 “(A) SINGLE, NATIONAL POLICY.—The
2 provisions of this section preempt any State or
3 local law, ordinance, policy, or rule, including
4 any criminal or civil fine or penalty structure,
5 insofar as they may now or hereafter relate to
6 the hiring, continued employment, or status
7 verification for employment eligibility purposes,
8 of unauthorized aliens.

9 “(B) STATE ENFORCEMENT OF FEDERAL
10 LAW.—

11 “(i) BUSINESS LICENSING.—A State,
12 locality, municipality, or political subdivi-
13 sion may exercise its authority over busi-
14 ness licensing and similar laws as a pen-
15 alty for failure to use the verification sys-
16 tem described in subsection (d) to verify
17 employment eligibility when and as re-
18 quired under subsection (b).

19 “(ii) GENERAL RULES.—A State, at
20 its own cost, may enforce the provisions of
21 this section, but only insofar as such State
22 follows the Federal regulations imple-
23 menting this section, applies the Federal
24 penalty structure set out in this section,
25 and complies with all Federal rules and

1 guidance concerning implementation of this
2 section. Such State may collect any fines
3 assessed under this section. An employer
4 may not be subject to enforcement, includ-
5 ing audit and investigation, by both a Fed-
6 eral agency and a State for the same viola-
7 tion under this section. Whichever entity,
8 the Federal agency or the State, is first to
9 initiate the enforcement action, has the
10 right of first refusal to proceed with the
11 enforcement action. The Secretary must
12 provide copies of all guidance, training,
13 and field instructions provided to Federal
14 officials implementing the provisions of
15 this section to each State.”.

16 **SEC. 207. REPEAL.**

17 (a) IN GENERAL.—Subtitle A of title IV of the Illegal
18 Immigration Reform and Immigrant Responsibility Act of
19 1996 (8 U.S.C. 1324a note) is repealed.

20 (b) REFERENCES.—Any reference in any Federal
21 law, Executive order, rule, regulation, or delegation of au-
22 thority, or any document of, or pertaining to, the Depart-
23 ment of Homeland Security, Department of Justice, or the
24 Social Security Administration, to the employment eligi-
25 bility confirmation system established under section 404

1 of the Illegal Immigration Reform and Immigrant Respon-
2 sibility Act of 1996 (8 U.S.C. 1324a note) is deemed to
3 refer to the employment eligibility confirmation system es-
4 tablished under section 274A(d) of the Immigration and
5 Nationality Act, as amended by section 203 of this title.

6 (c) **EFFECTIVE DATE.**—This section shall take effect
7 on the date that is 30 months after the date of the enact-
8 ment of this Act.

9 (d) **CLERICAL AMENDMENT.**—The table of sections,
10 in section 1(d) of the Illegal Immigration Reform and Im-
11 migrant Responsibility Act of 1996, is amended by strik-
12 ing the items relating to subtitle A of title IV.

13 **SEC. 208. PENALTIES.**

14 Section 274A of the Immigration and Nationality Act
15 (8 U.S.C. 1324a) is amended—

16 (1) in subsection (c)(1)—

17 (A) by striking “Attorney General” each
18 place such term appears and inserting “Sec-
19 retary of Homeland Security”; and

20 (B) in subparagraph (D), by striking
21 “Service” and inserting “Department of Home-
22 land Security”;

23 (2) in subsection (c)(4)—

1 (A) in subparagraph (A), in the matter be-
2 fore clause (i), by inserting “, subject to para-
3 graph (10),” after “in an amount”;

4 (B) in subparagraph (A)(i), by striking
5 “not less than \$250 and not more than
6 \$2,000” and inserting “not less than \$2,500
7 and not more than \$5,000”;

8 (C) in subparagraph (A)(ii), by striking
9 “not less than \$2,000 and not more than
10 \$5,000” and inserting “not less than \$5,000
11 and not more than \$10,000”;

12 (D) in subparagraph (A)(iii), by striking
13 “not less than \$3,000 and not more than
14 \$10,000” and inserting “not less than \$10,000
15 and not more than \$25,000”; and

16 (E) by moving the margin of the continu-
17 ation text following subparagraph (B) two ems
18 to the left and by amending subparagraph (B)
19 to read as follows:

20 “(B) may require the person or entity to
21 take such other remedial action as is appro-
22 priate.”;

23 (3) in subsection (e)(5)—

24 (A) in the paragraph heading, strike “PA-
25 PERWORK”;

1 (B) by inserting “, subject to paragraphs
2 (10) through (12),” after “in an amount”;

3 (C) by striking “\$100” and inserting
4 “\$1,000”;

5 (D) by striking “\$1,000” and inserting
6 “\$25,000”; and

7 (E) by adding at the end the following:
8 “Failure by a person or entity to utilize the em-
9 ployment eligibility verification system as re-
10 quired by law, or providing information to the
11 system that the person or entity knows or rea-
12 sonably believes to be false, shall be treated as
13 a violation of subsection (a)(1)(A).”;

14 (4) by adding at the end of subsection (c) the
15 following:

16 “(10) EXEMPTION FROM PENALTY FOR GOOD
17 FAITH VIOLATION.—In the case of imposition of a
18 civil penalty under paragraph (4)(A) with respect to
19 a violation of subsection (a)(1)(A) or (a)(2) for hir-
20 ing or continuation of employment or recruitment or
21 referral by person or entity and in the case of im-
22 position of a civil penalty under paragraph (5) for a
23 violation of subsection (a)(1)(B) for hiring or re-
24 cruitment or referral by a person or entity, the pen-
25 alty otherwise imposed may be waived or reduced if

1 the violator establishes that the violator acted in
2 good faith.

3 “(11) MITIGATION ELEMENT.—For purposes of
4 paragraph (4), the size of the business shall be
5 taken into account when assessing the level of civil
6 money penalty.

7 “(12) AUTHORITY TO DEBAR EMPLOYERS FOR
8 CERTAIN VIOLATIONS.—

9 “(A) IN GENERAL.—If a person or entity
10 is determined by the Secretary of Homeland Se-
11 curity to be a repeat violator of paragraph
12 (1)(A) or (2) of subsection (a), or is convicted
13 of a crime under this section, such person or
14 entity may be considered for debarment from
15 the receipt of Federal contracts, grants, or co-
16 operative agreements in accordance with the de-
17 barment standards and pursuant to the debar-
18 ment procedures set forth in the Federal Acqui-
19 sition Regulation.

20 “(B) DOES NOT HAVE CONTRACT, GRANT,
21 AGREEMENT.—If the Secretary of Homeland
22 Security or the Attorney General wishes to have
23 a person or entity considered for debarment in
24 accordance with this paragraph, and such an
25 person or entity does not hold a Federal con-

1 tract, grant or cooperative agreement, the Sec-
2 retary or Attorney General shall refer the mat-
3 ter to the Administrator of General Services to
4 determine whether to list the person or entity
5 on the List of Parties Excluded from Federal
6 Procurement, and if so, for what duration and
7 under what scope.

8 “(C) HAS CONTRACT, GRANT, AGREE-
9 MENT.—If the Secretary of Homeland Security
10 or the Attorney General wishes to have a per-
11 son or entity considered for debarment in ac-
12 cordance with this paragraph, and such person
13 or entity holds a Federal contract, grant or co-
14 operative agreement, the Secretary or Attorney
15 General shall advise all agencies or departments
16 holding a contract, grant, or cooperative agree-
17 ment with the person or entity of the Govern-
18 ment’s interest in having the person or entity
19 considered for debarment, and after soliciting
20 and considering the views of all such agencies
21 and departments, the Secretary or Attorney
22 General may refer the matter to any appro-
23 priate lead agency to determine whether to list
24 the person or entity on the List of Parties Ex-

1 cluded from Federal Procurement, and if so, for
2 what duration and under what scope.

3 “(D) REVIEW.—Any decision to debar a
4 person or entity in accordance with this para-
5 graph shall be reviewable pursuant to part 9.4
6 of the Federal Acquisition Regulation.

7 “(13) OFFICE FOR STATE AND LOCAL GOVERN-
8 MENT COMPLAINTS.—The Secretary of Homeland
9 Security shall establish an office—

10 “(A) to which State and local government
11 agencies may submit information indicating po-
12 tential violations of subsection (a), (b), or
13 (g)(1) that were generated in the normal course
14 of law enforcement or the normal course of
15 other official activities in the State or locality;

16 “(B) that is required to indicate to the
17 complaining State or local agency within five
18 business days of the filing of such a complaint
19 by identifying whether the Secretary will fur-
20 ther investigate the information provided;

21 “(C) that is required to investigate those
22 complaints filed by State or local government
23 agencies that, on their face, have a substantial
24 probability of validity;

1 “(D) that is required to notify the com-
2 plaining State or local agency of the results of
3 any such investigation conducted; and

4 “(E) that is required to report to the Con-
5 gress annually the number of complaints re-
6 ceived under this paragraph, the States and lo-
7 calities that filed such complaints, and the reso-
8 lution of the complaints investigated by the Sec-
9 retary.”; and

10 (5) by amending paragraph (1) of subsection (f)
11 to read as follows:

12 “(1) CRIMINAL PENALTY.—Any person or enti-
13 ty which engages in a pattern or practice of viola-
14 tions of subsection (a)(1) or (2) shall be fined not
15 more than \$5,000 for each unauthorized alien with
16 respect to which such a violation occurs, imprisoned
17 for not more than 18 months, or both, notwith-
18 standing the provisions of any other Federal law re-
19 lating to fine levels.”.

20 **SEC. 209. FRAUD AND MISUSE OF DOCUMENTS.**

21 Section 1546(b) of title 18, United States Code, is
22 amended—

23 (1) in paragraph (1), by striking “identification
24 document,” and inserting “identification document
25 or document meant to establish work authorization

1 (including the documents described in section
2 274A(b) of the Immigration and Nationality Act),”;
3 and

4 (2) in paragraph (2), by striking “identification
5 document” and inserting “identification document or
6 document meant to establish work authorization (in-
7 cluding the documents described in section 274A(b)
8 of the Immigration and Nationality Act),”.

9 **SEC. 210. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
10 **TION PROGRAMS.**

11 (a) **FUNDING UNDER AGREEMENT.**—Effective for
12 fiscal years beginning on or after October 1, 2019, the
13 Commissioner of Social Security and the Secretary of
14 Homeland Security shall enter into and maintain an
15 agreement which shall—

16 (1) provide funds to the Commissioner for the
17 full costs of the responsibilities of the Commissioner
18 under section 274A(d) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1324a(d)), as amended by
20 section 203 of this title, including (but not limited
21 to)—

22 (A) acquiring, installing, and maintaining
23 technological equipment and systems necessary
24 for the fulfillment of the responsibilities of the
25 Commissioner under such section 274A(d), but

1 only that portion of such costs that are attrib-
2 utable exclusively to such responsibilities; and

3 (B) responding to individuals who contest
4 a tentative nonconfirmation provided by the em-
5 ployment eligibility verification system estab-
6 lished under such section;

7 (2) provide such funds annually in advance of
8 the applicable quarter based on estimating method-
9 ology agreed to by the Commissioner and the Sec-
10 retary (except in such instances where the delayed
11 enactment of an annual appropriation may preclude
12 such quarterly payments); and

13 (3) require an annual accounting and reconcili-
14 ation of the actual costs incurred and the funds pro-
15 vided under the agreement, which shall be reviewed
16 by the Inspectors General of the Social Security Ad-
17 ministration and the Department of Homeland Secu-
18 rity.

19 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
20 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
21 which the agreement required under subsection (a) for any
22 fiscal year beginning on or after October 1, 2019, has not
23 been reached as of October 1 of such fiscal year, the latest
24 agreement between the Commissioner and the Secretary
25 of Homeland Security providing for funding to cover the

1 costs of the responsibilities of the Commissioner under
2 section 274A(d) of the Immigration and Nationality Act
3 (8 U.S.C. 1324a(d)) shall be deemed in effect on an in-
4 terim basis for such fiscal year until such time as an
5 agreement required under subsection (a) is subsequently
6 reached, except that the terms of such interim agreement
7 shall be modified by the Director of the Office of Manage-
8 ment and Budget to adjust for inflation and any increase
9 or decrease in the volume of requests under the employ-
10 ment eligibility verification system. In any case in which
11 an interim agreement applies for any fiscal year under this
12 subsection, the Commissioner and the Secretary shall, not
13 later than October 1 of such fiscal year, notify the Com-
14 mittee on Ways and Means, the Committee on the Judici-
15 ary, and the Committee on Appropriations of the House
16 of Representatives and the Committee on Finance, the
17 Committee on the Judiciary, and the Committee on Ap-
18 propriations of the Senate of the failure to reach the
19 agreement required under subsection (a) for such fiscal
20 year. Until such time as the agreement required under
21 subsection (a) has been reached for such fiscal year, the
22 Commissioner and the Secretary shall, not later than the
23 end of each 90-day period after October 1 of such fiscal
24 year, notify such Committees of the status of negotiations

1 between the Commissioner and the Secretary in order to
2 reach such an agreement.

3 **SEC. 211. FRAUD PREVENTION.**

4 (a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT**
5 **NUMBERS.**—The Secretary of Homeland Security, in con-
6 sultation with the Commissioner of Social Security, shall
7 establish a program in which social security account num-
8 bers that have been identified to be subject to unusual
9 multiple use in the employment eligibility verification sys-
10 tem established under section 274A(d) of the Immigration
11 and Nationality Act (8 U.S.C. 1324a(d)), as amended by
12 section 203 of this title, or that are otherwise suspected
13 or determined to have been compromised by identity fraud
14 or other misuse, shall be blocked from use for such system
15 purposes unless the individual using such number is able
16 to establish, through secure and fair additional security
17 procedures, that the individual is the legitimate holder of
18 the number.

19 (b) **ALLOWING SUSPENSION OF USE OF CERTAIN SO-**
20 **CIAL SECURITY ACCOUNT NUMBERS.**—The Secretary of
21 Homeland Security, in consultation with the Commis-
22 sioner of Social Security, shall establish a program which
23 shall provide a reliable, secure method by which victims
24 of identity fraud and other individuals may suspend or
25 limit the use of their social security account number or

1 other identifying information for purposes of the employ-
2 ment eligibility verification system established under sec-
3 tion 274A(d) of the Immigration and Nationality Act (8
4 U.S.C. 1324a(d)), as amended by section 203 of this title.
5 The Secretary may implement the program on a limited
6 pilot program basis before making it fully available to all
7 individuals.

8 (c) ALLOWING PARENTS TO PREVENT THEFT OF
9 THEIR CHILD'S IDENTITY.—The Secretary of Homeland
10 Security, in consultation with the Commissioner of Social
11 Security, shall establish a program which shall provide a
12 reliable, secure method by which parents or legal guard-
13 ians may suspend or limit the use of the social security
14 account number or other identifying information of a
15 minor under their care for the purposes of the employment
16 eligibility verification system established under 274A(d) of
17 the Immigration and Nationality Act (8 U.S.C. 1324a(d)),
18 as amended by section 203 of this title. The Secretary may
19 implement the program on a limited pilot program basis
20 before making it fully available to all individuals.

21 **SEC. 212. USE OF EMPLOYMENT ELIGIBILITY**
22 **VERIFICATION PHOTO TOOL.**

23 An employer who uses the photo matching tool used
24 as part of the E-Verify System shall match the photo tool
25 photograph to both the photograph on the identity or em-

1 ployment eligibility document provided by the employee
2 and to the face of the employee submitting the document
3 for employment verification purposes.

4 **SEC. 213. IDENTITY AUTHENTICATION EMPLOYMENT ELIGI-**
5 **BILITY VERIFICATION PILOT PROGRAMS.**

6 Not later than 24 months after the date of the enact-
7 ment of this Act, the Secretary of Homeland Security,
8 after consultation with the Commissioner of Social Secu-
9 rity and the Director of the National Institute of Stand-
10 ards and Technology, shall establish by regulation not less
11 than 2 Identity Authentication Employment Eligibility
12 Verification pilot programs, each using a separate and dis-
13 tinct technology (the “Authentication Pilots”). The pur-
14 pose of the Authentication Pilots shall be to provide for
15 identity authentication and employment eligibility
16 verification with respect to enrolled new employees which
17 shall be available to any employer that elects to participate
18 in either of the Authentication Pilots. Any participating
19 employer may cancel the employer’s participation in the
20 Authentication Pilot after one year after electing to par-
21 ticipate without prejudice to future participation. The Sec-
22 retary shall report to the Committee on the Judiciary of
23 the House of Representatives and the Committee on the
24 Judiciary of the Senate the Secretary’s findings on the
25 Authentication Pilots, including the authentication tech-

1 nologies chosen, not later than 12 months after com-
2 mencement of the Authentication Pilots.

3 **SEC. 214. INSPECTOR GENERAL AUDITS.**

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of the enactment of this Act, the Inspector General
6 of the Social Security Administration shall complete audits
7 of the following categories in order to uncover evidence
8 of individuals who are not authorized to work in the
9 United States:

10 (1) Workers who dispute wages reported on
11 their social security account number when they be-
12 lieve someone else has used such number and name
13 to report wages.

14 (2) Children's social security account numbers
15 used for work purposes.

16 (3) Employers whose workers present signifi-
17 cant numbers of mismatched social security account
18 numbers or names for wage reporting.

19 (b) SUBMISSION.—The Inspector General of the So-
20 cial Security Administration shall submit the audits com-
21 pleted under subsection (a) to the Committee on Ways and
22 Means of the House of Representatives and the Committee
23 on Finance of the Senate for review of the evidence of
24 individuals who are not authorized to work in the United
25 States. The Chairmen of those Committees shall then de-

1 termine information to be shared with the Secretary of
2 Homeland Security so that such Secretary can investigate
3 the unauthorized employment demonstrated by such evi-
4 dence.